

applicable assessment period, and annually thereafter, as long as the handler continues to be eligible for the exemption. If the person complies with the requirements of this section and is eligible for an assessment exemption, the committee or board will approve the exemption and notify the applicant, in writing, within the applicable timeframe as follows: For exemption requests received on or before August 15, 2005, the committee or board will have 60 days to approve the exemption request; after August 15, 2005, the committee or board will have 30 days to approve the exemption request. If the application is disapproved, the committee or board will notify the applicant, in writing, of the reason(s) for disapproval within the same timeframes.

(d) The applicable assessment rate for any handler approved for an exemption shall be computed by dividing the committee's or board's estimated non-marketing promotion expenditures by the committee's or board's estimated total expenditures approved by the Secretary and applying that percentage to the assessment rate applicable to all persons for the assessment period. The committee's or board's estimated non-marketing promotion expenditures shall exclude the direct costs of marketing promotion and the portion of committee's or board's administrative and overhead costs (*e.g.*, salaries, supplies, printing, equipment, rent, contractual expenses, and other applicable costs) to support and administer the marketing promotion activities. If a committee or board does not plan to conduct any market promotion activities in a fiscal year, the committee or board may submit a certification to that effect to the Secretary, and as long as no assessments for such fiscal year are used for marketing promotion projects, or the administration of projects funded by a previous fiscal period's assessments, the committee or board may assess all handlers, regardless of their organic status, the full assessment rate applicable to the assessment period. For each assessment period, the Secretary shall review the portion of the assessment rate applicable to marketing promotion for persons

eligible for an exemption and, if appropriate, approve the assessment rate.

(e) When the requirements of this section for exemption no longer apply to a handler, the handler shall inform the committee or board within 30 days and pay the full assessment on all remaining assessable product for all committee or board assessments from the date the handler no longer is eligible to the end of the assessment period.

(f) Within 30 days following the applicable assessment period, the committee or board shall re-compute the applicable assessment rate for handlers exempt under this section based on the actual expenditures incurred during the applicable assessment period. The Secretary shall review, and if appropriate, approve any change in the portion of the assessment rate for market promotion applicable to exempt handlers, and authorize adjustments for any overpayments.

(g) The exemption will apply at the beginning of the next assessable period following notification of approval of the assessment exemption, in writing, by the committee or board.

[70 FR 2770, Jan. 14, 2005]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Subpart—Order Regulating Handling

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Subpart—Grade and Size Requirements

- 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation.
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Subpart—Interpretative Rule

- 905.400 Interpretation of certain provisions.
- AUTHORITY: 7 U.S.C. 601-674.

Subpart—Order Regulating Handling

SOURCE: 22 FR 10734, Dec. 27, 1957, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

DEFINITIONS

§ 905.1 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

[42 FR 59368, Nov. 17, 1977]

§ 905.2 Act.

Act means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended. (48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*; 68 Stat. 906, 1047.)

§ 905.3 Person.

Person means an individual, partnership, corporation, association, business trust, legal representative, or any organized group of individuals.